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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,266	11/03/2003	Josef Wiesinger	0127-085P/JAB	3687
7590	04/06/2007	Jay A. Bondell, Esq. SCHWEITZER CORNMAN GROSS & BONDELL LLP 292 Madison Avenue New York, NY 10017	EXAMINER ROBERTS, JESSICA M	
			ART UNIT 2609	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS		MAIL DATE 04/06/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

717

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/700,266	WIESINGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jessica Roberts	2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 03/08/2004.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

***Claim Objections***

1. Claims 12-13 are objected to because of the following informalities:
  - a. Claim 12, each claim begins with a capital letter and ends with a period.
  - b. Re claim 13, should depend upon claim 12.

For examination purposes, claim 13 is viewed as dependant upon claim 12.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1, 3-4, and 9-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - Claim 1, line 4, "of the escalator and/or moving walk" renders the claim indefinite.

Is the invention for a moving walk or escalator? For purposes of art rejection, it is read as an escalator.
  - Claims, 3-4 and 9-13 are rejected under the same analysis. The use, "of the escalator and/or moving walk" renders the claims indefinite. For purposes of art rejection, it is read as an escalator.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 6, and 10-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Re claim 6, the means for linking the video cameras as disclosed in the description to encompass signals has no physical structure, does not itself perform any useful, concrete and tangible result. Hence, it falls under non-statutory natural phenomena. (Interim Guidelines, Annex IV (c): Electromagnetic Signals).

Re claims 10 “a computer program product...” which qualifies as functional descriptive subject matter. A computer program is merely a set of instructions. However, by itself it is non-statutory because without a computer-readable medium, the computer programs functionality cannot be realized (Interim Guidelines, Annex IV).

Re claim 11, Claim 11 fails to remedy the issue as stated in claim 10. Thus, it is too rejected as non-statutory subject matter (Interim Guidelines, Annex IV).

Re claim 12, although claim 12 pertains to a method, the recited steps are nothing more than an algorithm, i.e. abstract idea. It fails to recite a result derived from a physical transformation, and/or a result that is useful, concrete and tangible with respect to real world application.



***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 1-2, 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ponsot et al, US 6,606,538 in view of Miura et al, US 4,879,596.**

Re claim 1, Ponsot teaches a monitoring system (figs. 1-2) for the detection a person or object within a detection zone of an escalator (col. 3, lines 42-56) comprising at least one video camera (5-9) and at least one escalator and/or moving walk (1) for acquiring a plurality of images. However, Ponsot fails to teach acquiring stereoscopic images as claimed. It is noted however that the system and process for acquiring stereoscopic images is notoriously well known and used in the art for depth perception to enhance image detection as evidenced by Miura (col. 1 line 8-10, col. 4 line 13-14, col. 6 lines 1-4, fig. 1:10, and fig. 5). 

Therefore, the combined teaching of Ponsot and Miura as a whole would have rendered obvious acquiring stereoscopic images as claimed for the benefit of depth perception to enhance image detection as taught by Miura.

Re claim 2, the combination of Ponsot and Miura as a whole also teaches the video cameras are located above the escalator and/or moving walk (Ponsot, fig. 1).

Re claim 4, the combination of Ponsot and Miura as a whole further teaches more than one pair of video cameras are arranged along the escalator (moving staircase) and/or moving walk to monitor a full length (entire detection zone which includes all of the moving staircase) of the escalator and/or moving walk (Ponsot col. 3 line 44-49 also fig. 1).

Re claim 5, the analysis and rejection for claim 1 also apply here. Specifically, Ponsot fails to further teach a processing unit for processing the stereoscopic images. However, Ponsot does teach the monitoring system comprising a processing unit for processing a plurality of images. Miura does teach acquiring stereoscopic images on a moving escalator (col. 4 line 1-6, col. 4 line 9-12, and col. 8 line 56-60, fig. 2), and a signal-processing unit (col. 2 line 55-61) for processing stereoscopic images.

Therefore, the combined teaching of Ponsot and Miura as a whole would have rendered obvious acquiring and signal processing stereoscopic from the plurality of images as claimed for the benefit of depth perception to enhance image detection as taught by Miura.

Re claim 6, the combination of Ponsot and Miura as a whole further teaches the monitoring system further comprises at least one of a means for linking (Ponsot, series

connection and parallel connection col. 4 line 17-18 and fig. 2: 14-15) the video cameras with the processing unit (Ponsot, processor col. 4 line 17 and fig. 2:20), in the form of a data exchange bus (address bus and data bus), and a means for storing the stereoscopic images (Ponsot, col. 4 line 1-6, col. 4 line 21-24, and fig. 3).

Re claim 7, the combination of Ponsot and Miura as a whole further teaches the processing unit comprises at least one personal computer (Ponsot, fig. 2) loaded with an image processing software program (histogram) for comparing digital data of a model image with data of an actual acquired image (Ponsot, col. 4 line 17-19, col. 5 line 52-56 and fig. 2).

Re claim 8, the combination of Ponsot and Miura as a whole further teaches the processing unit is integrated with at least one camera (Ponsot, col. 8 line 52-56 and fig. 2).

Re claim 9, the combination of Ponsot and Miura as a whole further teaches the monitoring system is connected electrical to a control for restarting the escalator and/or moving walk after a stop only when no obstacle and/or person is detected on the escalator and/or moving walk (Ponsot, col. 2 line 19-23, col. 3 line 56-52, and col. 9 line 3-6, i.e. switching the unavailability of failure signal of the monitoring device).

Re claims 10-11, the analysis and rejection made in claims 1-9 also apply here. The combination of Ponsot and Miura as a whole teaches a processor-based system. Hence, a computer program product for executing the necessary steps corresponding to the system of claim 1 would have been inherent.

~~the system of claim 1 would have been inherent~~

Art Unit: 2600

Re claims 12-13, which recite a corresponding method to the monitoring system of claims 1-9. Thus, the analysis and rejection made in claims 1-9 also apply here because the monitoring system in claims 1-9 would have necessarily performed the method steps in claim 12.

In further regards to claim 13, the combination of Ponsot and Miura teaches restarting the escalator and/or moving walk automatically (Ponsot, col. 4 line 9-16; in Ponsot, the main function of the processor is to receive the images coming from the cameras, to process the images in order to determine whether or not persons or objects are present in the detection zone and as a function of the presence or absence of persons or objects in the detection zone to generate command signals for controlling the staircase, which signals are to be applied to the control device after a stop only when no obstacle and/or person is detected on the escalator and/or moving walk).

**9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ponsot et al, US 6,606,538 in view of Miura et al, US 4,879,596 as applied to claim 1 above and further in view of Ahl et al, US 5,704,464.**

Re claim 3, the combination of Ponsot and Miura fails to teach the monitoring system characterized in that the video cameras are located in a balustrade of the escalator and/or moving walk. Ahls discloses a passenger sensor (fig. 2:32) for a convey or includes a transmitter assembly that is positioned within a channel in the conveyor or balustrade (fig 2:22). Therefore, the combined teachings of Ponsot, Miura and Ahls et al, as a whole would have rendered obvious the arrangement of the using a

Art Unit: 2600

monitoring system located in the balustrade as claimed for the benefit to determine the presence of a passenger.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references not used in the above rejections were included because they teach additional information regarding stereoscopic imaging and the detection of persons and/or objects on conveyors for persons.

***Contact***

11. Any inquiry concerning this communication from the examiner should be directed to Jessica Roberts whose telephone number is (571) 270-1821. The examiner can normally be reached on M-F 7:30-5:00 alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiners Supervisor, Vu Le, can be reached on (571) 272-7332. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

Application/Control Number: 10/700,266  
Art Unit: 2600

Page 9

have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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